

REMARKS

I. Summary of the Office Action and this Reply

Claims 1, 3-13, 16 and 18-30 were previously pending. Upon entry of the present paper, claims 1 are amended, claims 4, 8-9 and 14-30 are canceled, and new claims 33-43 are added. No new matter is introduced. As a result, claims 1, 3, 5-7, 10-13 and 33-43 are now pending.

In the Office Action, claims 1, 5-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,240,548 to Holzle et al. ("Holzle"). Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Holzle in view of U.S. Patent No. 7,155,707 to Clarke ("Clarke"). Claims 3, 16, and 18-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Holzle in view of U.S. Patent No. 7,103,723 to Cierniak ("Cierniak"). These rejections are respectfully traversed below, especially insofar as they may be applied to the claims as amended.

Applicant does not acquiesce to the Examiner's characterizations of either the art of record or Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing this Reply. This Reply is intended to be a full and complete response to the Office Action dated November 19, 2008.

II. Independent Claim 1 and Dependent Claims 3, 5-7, 10-13 and 33-34

Amended independent claim 1 recites, among other features, the following:

identifying one or more p-code methods that have a resource utilization parameter above a threshold level; and
annotating said identified p-code methods to be compiled, said
annotating comprising inserting an in-line priority level hint for

each annotated p-code method, said priority level hints being hierarchically-related and collectively representing a hierarchical order, said priority level hints enabling preferential processing of said p-code methods in a hierarchical manner corresponding to said hierarchical order of said priority level hints

In addressing previous dependent claim 4, the Office conceded that the primary reference (Holzle) failed to disclose priority level hints being provided “in-line with said identified p-code methods.” Action, p. 5. The Office relied on Clarke to address this deficiency.

Even if one of ordinary skill were to combine the teachings of Holzle and Clarke, the end result still would not have the features of the recited claim 1 method. The Office has cited Clarke for the basic notion of “in-line branch instructions.” Combining such a concept with Holzle would merely allow the Holzle methods to contain such branching instructions within their code. The combination would not alter Holzle’s use of a database list and execution list (which Holzle uses to determine which method to compile during a particular period of low activity – see col. 2, lines 38-42 and col. 6, lines 34-51). Those lists are not instructions, and they are not part of the Holzle executing code. Instead, those lists are simply used to determine which methods, if any, can be compiled in the period of low activity. See Holzle, col. 6, lines 34 et seq.

There is another problem with the alleged combination – it disregards the actual teachings of Holzle. The Office admits that the Holzle database and execution lists aren’t in-line priority level hints, and casually alleges that one of ordinary skill would modify Holzle to change that fact. Holzle’s lists are separate for a reason. One of them (the execution list) isn’t even generated until program execution, and the Office offers no rationale for how the proposed combination would allegedly insert code while executing code. See Holzle, col. 6, line 52-54

("[a]n execution list ... is a queue ... which is created during the current execution of the program ...").

As yet another distinction, amended claim 1 recites "identifying one or more p-code methods that have a resource utilization parameter above a threshold level." Neither Holzle nor Clarke discusses such a resource utilization parameter for their methods. To the contrary, the Holzle lists are based on invocation counts.

For at least these reasons, Applicants submit that amended independent claim 1 distinguishes over Holzle and Clarke. The other applied references are cited for various features of the dependent claims, and do not teach or suggest a modification to Holzle or Clarke that would overcome these deficiencies. Accordingly, Applicants submit that amended independent claim 1 distinguishes over the applied references. Claims 3, 5-7, 10-13 and 33-34 depend from claim 1, and are distinguishable for at least the same reasons, and further in view of the various features recited therein. For example, claim 12 recites "selectively pre-compiling portions of said p-code file that are designated by the in-line hints." Even with branching instructions of Clarke, the applied references still would not have in-line hints designating portions of a p-code file, as recited. As another example, new claim 33 recites "replacing lines of interpreted instructions in the p-code file with compiled code for the identified p-code methods," and new claim 34 recites "managing storage of methods in a cache memory according to the hierarchical order."

III. Independent Claim 35 and Dependent Claims 36-43

New independent claim 35 is a computer-readable medium claim that contains similar language to that found in claim 1. For example, claim 35 recites "annotating said identified p-code methods to be compiled, said annotating comprising inserting an in-line priority level hint for each annotated p-code method."

Claim 35 is similarly distinguishable over the applied references. Dependent claims 36-43 are also similarly distinguishable, by virtue of their dependency on claim 35, and further in view of the various features recited therein.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe claims 1, 3, 5-7, 10-13 and 33-43 to be patentable and the application in condition for allowance, and request respectfully issuance of a Notice of Allowance. If any issues remain, Applicants invite the Examiner to telephone the undersigned representative at the number appearing below.

Respectfully submitted,

Dated: February 19, 2009

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